

REMARKS

Reconsideration and allowance of the captioned application in view of the remarks that follow is respectfully requested. These remarks are intended to advance the case to issue without delay. The claims in the application were 2, 3, 5-10 and 12-23. New claim 24 has been added in this amendment. Support for new claim 24 may be found in the specification on page 18, lines 18-24. Accordingly, the claims pending in the application remain to be claims 2, 3, 5-10 and 12-24.

Claims 2, 3, 5-10 and 12-23 were rejected under 35 USC §112, first and second paragraphs.

More specifically, claims 2, 3, 5-10 and 12-23 were rejected under 35 USC §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventor(s), at the time the application was filed, has possession of the claimed invention. It is said applicant has no basis in the original specification for the phrase "soft solid".

Applicant respectfully submits that the original specification provides a basis for the phrase "soft solid". For example, the Examiner is referred to page 20, lines 20-31 of the original specification. Here it is stated that liquid and soft solid compositions are embodiments of the invention and the remainder of the paragraph goes on to further describe these product forms. It is respectfully asserted that this paragraph provides sufficient disclosure of this aspect of the invention. Therefore, withdrawal of this objection is respectfully requested.

Claims 11 was rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention. Applicant has previously cancelled claim 11 in their communication filed on July 3, 2002. Accordingly, this rejection is moot.

Claims 2, 3, 5-10 and 12-23 were rejected under 35 USC §103(a) as being unpatentable over Vu et al. This rejection is respectfully traversed.

Applicants claims are directed to liquid or soft solid anti-microbial compositions. Vu et al. on the other hand relates to clear gel stick compositions. Stick products are known in the art as being relatively hard in order to maintain their structure as a stick. This is recognised in Vu et al. at column 3, lines 6-7 where it is stated that "[i]f the gel stick includes too little of the dibenzlidene alditol it may lack sufficient hardness." Accordingly, Vu et al is directed at stick products that are understood by one skilled in the art to be much harder than liquid or soft solid products.

In the Office Action it is recited that gel sticks are not necessarily hard. It is further noted that Vu's composition is mainly liquid (70-95% liquid vehicle) and that therefore Vu's composition is not too hard, but relatively soft. This statement is in contrast to what is taught in Vu. As previously stated, Vu talks about making sticks that have "sufficient hardness". Accordingly, Vu is concerned with maintaining a level of hardness so that his compositions is a clear gel in stick form. Additionally, the Office Action recites that Vu's compositions are made of 70-95% liquid vehicle. This is irrelevant as to whether Vu is concerned with a stick or other form as stick compositions may contain such high levels of a liquid vehicle.

Additionally, the claims of the present invention were previously restricted to iron (III) chelators that are micro-molar active. Vu et al. does not disclose the use of these selected iron (III) chelators in compositions that are liquids or soft solids. The Office Action asserts that applicant provides no unexpected data for micro-molar amount of the chelator and that where the prior art teaches the instant components of a composition being claimed with the exception of amounts, applicant must show

unexpected data for claimed amounts. Applicant has specifically limited the claims to select iron (III) chelators that applicant has found to provide enhanced anti-microbial performance in the claimed product. This benefit could not have been predicted from Vu et al., where chelating agents in general were used in a different form of product (gel sticks) to attain a different benefit (color and clarity) (see Vu et al., column 5, lines 8-30). Accordingly, applicant has not merely found a range that provided unexpected results but actual components that provide unexpected results in the form of enhanced anti-microbial performance.


Thus, the claims of the present invention are patentable over Vu et al. and the withdrawal of this rejection under 35 USC §103(a) is respectfully requested.

A first Office Action Rejection of this application would be improper under the MPEP because new claim 24 raises a new issue of patentability, namely whether the cited references disclose or are suggestive of the claimed composition comprising an antiperspirant active, an iron (III) chelator and a wash-off agent. Therefore, it is respectfully requested that this application not be given a First Office Action Final Rejection.

In light of the above remarks, it is respectfully requested that the application be allowed to issue.

If a telephone conversation would be of assistance in advancing the prosecution of the present application, applicants' undersigned attorney invites the Examiner to telephone at the number provided.

Respectfully submitted,



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